IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.3997 OF 2007

WITH
WRIT PETITION NO.2825 OF 2007

Ananda Khaladkar & anr. Petitioners
vs.
Janata SahakariBank Ltd. Respondents

Mr.P.N.Joshi for the petitioners.

Mr.Prashant Beri i/b.M/s.Berry & Co. for respondent no.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 18th October, 2007

P.C.

The petitioners are the guarantors. The recovery certificates are issued against the principal borrower and the guarantors.

2. Admittedly, while taking any steps, it is necessary for the petitioners to deposit 50% of the amount. The petitioners did not comply with the same.

3. As recorded, it is not possible for the Bank to recover anything from the principal debtor/borrower. Therefore, the proceeding against the petitioners who are jointly and severally liable to make the payment in pursuance to the recovery certificates cannot be gone

into at this stage of the proceeding and specifically for want of non-compliance of the 50% of the recoverable dues in the matter in view of the mandatory provisions of Section 154(2)(A) of the Maharashtra Cooperative Societies Act,1960.

4. Whether there is any fraud committed or not is a matter which just cannot be gone into at this stage of the proceeding in the present writ petitions in view of the above circumstances.

5. Therefore, keeping all the points open, I am not inclined to entertain the present writ petitions. The petitions are therefore disposed with liberty.

[ANOOP V. MOHTA,J.]